Office - Supreme Court, U.S.
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ALEXANDER L. STEVAS
CLERK

Case No. 84-1583

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

CASC Nos. 84-1113 & 84-1748

DC No. 83-0454

WALBER CONSTRUCTION CO.,

Appellant,

V.

THE UNITED STATES
DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT
SAMUEL PIERCE, Secretary,

Appellee.

APPENDIX FOR APPELLANT

By: Pauline Walber D/B/A
Walber Construction Co.
Appellant,
3530 West Outer Drive
Detroit, Michigan 48221
Phone: 313-864-6076 or
313-537-7800

Dated: February 26, 1985

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

APPENDIX FOR APPELLANT

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ORDER entered in the U. S. Court of Appeals for the Sixth Circuit.

Walber Construction Company, Plaintiff-Appellant, V. United States Department of Housing and Urban Development Defendant-Appellee.

Nos. 84-1113 and 84-1748

Entered November 16, 1984.

Appendix B (Appl. #17)

ORDER entered in the United States Court of Appeals for the Sixth Circuit.

Walber Construction Company, Plaintiff-Appellant, V. United States Department of Housing and Urban Development, Defendant-Appellee.

Nos. 84-1113 and 84-1748

Entered December 21, 1984.

Appendix C (1-3) (DC #66)

ORDER entered in the United States District Court Eastern District of Michigan Southern Division.

Walber Construction Co., Plaintiff, V. United States Department of Housing & Urban Development, et al., Defendants.

Case No. 83-CV-0454-DT

Dated: September 7, 1984

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ORDER entered in the United States District Court Eastern District of Michigan Southern Division

Walber Construction Co., Plaintiff, V. United States Department of Housing & Urban Development, et al., Defendants

Case No. 83-CV-0454-DT

Dated: October 21, 1984.

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ORDER entered in the United States Claims Court

Walber Construction Co., Plaintiff, V
the United States, Defendant

No. 568-84C

Filed: December 11, 1984

Appendix F

JUDGMENT entered in the United States Claims Court

Walber Construction Co. V. The United States

No. 568-84 C

Filed: December 27, 1984

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ORDER entered in the United States District Court
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Walber Construction Co., Plaintiff, -vs- The United States Department of Housing and Urban Development Samuel Pierce Secretary, Defendants

Civil No. 83-CV-0454

Entered: November 16, 1983

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ORDER entered in the United States District Court
Eastern District of Michigan Southern Division

Walber Construction Co., Plaintiff, -vs- United States Department of Housing & Urban Development ET AL, Defendants.

Civil No. 83-CV-0454-DT

Entered: January 9, 1984

Appendix I (1-3) (DC #48)

ORDER entered in the United States District Court Eastern District of Michigan Southern Division

Walber Construction Co., Plaintiff, V. United States Department of Housing & Urban Development, et al., Defendants

Civil No. 83-CV-0454-DT

Entered: February 9, 1984

Appendix J (1-2)

NOTICE OF APPEAL filed in the United States Court of Appeals for the Sixth Circuit

Walber Construction Co., Appellant -vs- The United States Department of Housing and Urban Development Samuel Fierce, Secretary, Appellee.

Case Nos. 84-1113 & 84-1748

District Court No. 83-0454

Dated: January 2, 1985

Appendix K (DC #51)

NOTICE OF APPEAL filed in the United States District Court Eastern District of Michigan Southern Division

Walber Construction Co., Plaintiff, -vs- The United States Department of Housing and Urban Development Samuel Fierce, Secretary, Defendants.

Civil Action No. 83-CV-0454-DT

Filed: February 15, 1984

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NOTICE OF APPEAL filed in the United States District Court Eastern District of Michigan Southern Division

Walber Construction Co., Plaintiff -vs- The United States Department of Housing and Urban Development Samuel Pierce, Secretary, Defendants.

Civil Action No. 83-CV-0454-DT

Filed: October 16, 1984

Appendix M

LETTER from the United States Court of Appeals for the Federal Circuit (Notice of Case Transferred)

Walber Construction Co. vs. U.S. Dept. of HUD

Case Number 85-793

Dated: November 20, 1984

Nos. 84-1113 and 84-1748

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

WALBER CONSTRUCTION COMPANY, Plaintiff-Appellant, v. UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, Defendant-Appellee.	O R D E R FILED NOV 16, 1984 John P. Hehman, Clerk

BEFORE: KENNEDY, KRUPANSKY AND WELLFORD, Circuit Judges

This matter is before the Court upon consideration of the motion to dismiss and motion for stay filed in case no. 84-1113 and the motion for enlargement of time to make payment of the filing and docket fees or waive fees in case no. 84-1748.

A review of the record indicates that the district court action was based in part on 28 U.S.C. 1346. The United States Court of Appeals for the Federal Circuit has exclusive jurisdiction in an appeal taken from such an action. Oliveira v. United States, 734 F. 2d 760 (11th Cir. 1984; Spagnola v. Stockman, 732 F. 2d 908 (Fed. Cir. 1984).

It is ORDERED that the appeals be and hereby are transferred to the United States Court of

Appeals for the Federal Circuit.

28 U.S.C. 1631

ENTERED BY ORDER OF THE COURT

John F. Hehman
Clerk

Nos. 84-1113 and 84-1748

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

WAIBER CONSTRUCTION COMPANY, Plaintiff-Appellant, v. UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, Defendant-Appellee.	O R D E R FILED DEC 21 1984 JOHN P. HEHMAN, Clerk

BEFORE: KENNEDY, KRUPANSKY and WELLFORD, Circuit Judges

This matter is before the Court upon consideration of the appellant's motion for reconsideration of this Court's November 16, 1984, order transferring the appeals to the United States Court of Appeals for the Federal Circuit.

This panel after having carefully re-examined the record finds that it misapprehended no question of law or fact in its November 16, 1984, order.

It is ORDERED that the motion for reconsideration be and hereby is denied.

ENTERED BY ORDER OF THE COURT

John P. Hehman
Clerk

APPENDIX B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WALBER CONSTRUCTION CO., Plaintiff, v. UNITED STATES DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, et al., Defendants	CASE NO. 83-CV-0454-DT

ORDER DENYING PLAINTIFF'S MOTIONS TO TEMPORARILY SET ASIDE CLAIMS REGARDING LAKEWOOD CONTRACT AND MOTION TO AMEND ORDER SUBJECT MATTER JURISDICTION AND TRANSFERRING ACTION WITH REGARD TO LAKEWOOD CONTRACT TO UNITED STATES CLAIMS COURT

Plaintiff having filed a motion to temporarily set aside claims regarding contract 044-78-4679 (Lakewood) and a motion to amend order subject matter jurisdiction regarding the Court's order of January 6, 1984; and the Court having ordered that the motions would be determined without oral hearing pursuant to Local Rule 17(j); and the Court having read and considered the motions and responses in opposition thereto; and having determined in its order of January 6, 1984 that the Court's jurisdiction is under 28 U.S.C. 1346(a)(2); and in said order having directed plaintiff to make an election whether to waive any damage "claims in excess of

$10,000 under each of the three contracts'* and if no election was made, the action would be transferred with regard to the three contract claims in excess of $10,000 to the United States Claims Court pursuant to 28 U.S.C. 1631; and it appearing that plaintiff elected to waive any damage claims in excess of $10,000 under two of the three contcacts, specifically 044-78-4980 (Longacre) and 044-78-4694 (Sussex); and it further appearing that plaintiff' claim under contract 044-78-4679 (Lakewood) is outside the Court's subject matter jurisdiction inasmuch as it is a claim in excess of $10,000 and within the exclusive jurisdiction of the United States Claims Court; and it further appearing that there is no good cause to stay the transfer of the action with regard to contract 044-78-4679 (Lakewood); and tne Court having determined that such transfer will not adjudicate one or more but fewer than all of plaintiff's claims to permit entry of judgment,

IT IS HEREBY ORDERED that plaintiff's motion to temporarily set aside claims regarding contract 044-78-4679 (Lakewood) is DENIED.

IT IS FURTHER ORDERED that the action with regard to contract 044-78-4679 (Lakewood) be, and

hereby is transferred to the United States Claims Court pursuant to 28 U.S.C. 1631.

IT IS FURTHER ORDERED that plaintiff's motion to amend order subject matter jurisdiction is DENIED.

James P. Churchill
UNITED STATES DISTRICT JUDGE

PURSUANT TO RULE 77(d)FRCivP
COPIES HAVE BEEN MAILED TO
THE FOLLOWING;

Pauline Walber
Francis L. Zebot, Esq.

ON September 14, 1984
Lillian Brooks
Deputy Clerk

A TRUE COPY

Clerk, U. S. District Court
Eastern District of Michigan

By: Lillian Brooks
DEPUTY CLERK

Dated: Sept. 7, 1984

*044-78-4989 (Longacre); 044-78-4694 (Sussex); 044-78-4679 (Lakewood).

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WALBER CONSTRUCTION CO., Plaintiff,	CASE NO.
v.	83-CV-0454-DT
UNITED STATES DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, et al., Defendants	

ORDER DENYING PLAINTIFF'S MOTION TO STAY PROCEEDINGS FOR ENFORCING ORDER TO TRANSFER ACTION TO UNITED STATES CLAIMS COURT

Plaintiff having filed a motion to stay proceedings for enforcing order to transfer action to the United States Claims Court; and the Court having construed the motion as a motion for reconsideration of the Court's Order Denying Plaintiff's Motions to Temporarily Set Aside Claims Regarding Lakewood Contract and Motion to Amend Order Subject Matter Jurisdiction and Transferring Action With Regard to Lakewood Contract to United States Claims Court dated September 7, 1984 wherein the Court determined that "there is no good cause to stay the transfer of the action with regard to contract 044-78-4679 (Lakewood)" and it appearing that the order having been entered on Spetember 14, 1984; and it

further appearing that a copy of said order having been mailed to plaintiff on September 14, 1984; and the present motion having been filed on October 1, 1984; and the Court, after giving plaintiff the benefit of the most liberal interpretations of the Federal Rules of Civil Procedure and Rule 17(k) of the Local Rules of the United States District Court for the Eastern District of Michigan, having determined that plaintiff's motion is untimely,

IT IS HEREBY ORDERED that plaintiff's motion is DENIED.

James P. Churchill
UNITED STATES DISTRICT JUDGE

Dated: 10-21-84

PURSUANT TO RULE 77(d) FRCivP
COPIES HAVE BEEN MAILED TO
THE FOLLOWING:

Pauline Walber
Francis L. Zebot, Esq.

ON October 7, 1984
Lillian Brooks
DEPUTY COURT CLERK

A TRUE COPY

CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

BY: Lillian Brooks
DEPUTY CLERK

IN THE UNITED STATES CLAIMS COURT

Filed DEC 11 1984

WALBER CONSTRUCTION CO., Plaintiff,	)	No. 568-84C
v.	)	
THE UNITED STATES, Defendant.	)	

ORDER

(1) Plaintiff's Motion to Stay Proceedings Pending Return to the District Court, filed November 20, 1984, is denied.

(2) Plaintiff has until December 26, 1984, to file a complaint pursuant to RUSCC 84(a)(2).

(3) If Plaintiff fails to comply with RUSCC 84(a)(2) in a timely fashion pursuant to (2) above the clerk is directed to dismiss the case without prejudice.

December 11, 1984

ALEX DOZINSKI
Chief Judge

mls

APPENDIX E

IN THE UNITED STATES CLAIMS COURT

No. 568-84 C

WALBER CONSTRUCTION CO.	)	JUDGMENT
v.	)	
THE UNITED STATES	)	Filed DEC 27 1984

Pursuant to the order of December 11, 1984, directing plaintiff to comply with RUSCC 84(a)(2) by December 26, 1984, and plaintiff having failed to do so

IT IS ORDERED AND ADJUDGED this date, pursuant to Rule 58, that the complaint is dismissed without prejudice for failure to comply with RUSCC 84(a)(2).

Frank T. Peartree

Clerk of Court

By: Joanne L. McAleer

Deputy Clerk

DEC 27 1984

NOTE: As to appeal, 60 days from this date, see FRAP 4(a)

APPENDIX F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WALBER CONSTRUCTION CO., Plaintiff, - vs - THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, and SAMUEL PIERCE, Secretary, Defendants.	CIVIL NO. 83-CV-0454-DT

ORDER DENYING MOTION TO COMPEL DEFENDANT TO ANSWER AMENDED COMPLAINT AND AUTHORIZING ENTRY OF DEFAULT

At a session of said court held in the Federal Building and U. S. Courthouse, Detroit, Michigan, on November 16, 1983

Present: HONORABLE JAMES P. CHURCHILL
United States District Judge

The plaintiff having filed a motion to compel the defendant to file an answer to the amended complaint filed June 30, 1983; and the Court having ordered the motion to be determined on briefs and without oral argument on August 5, 1983; and the defendant having failed to respond to either the order or the amended complaint; and it appearing that there is no authority for compelling an answer by the defendant; but it further appearing that the motion shows that the defendant has failed to plead or otherwise defend, so that the entry of default is

appropriate under F.R. Civ.P. 55(e); and the Court being fully advised in the premises; */

IT IS ORDERED that the plaintiff's motion to compel the defendant to answer the amended complaint be and is hereby DENIED.

IT IS FURTHER ORDERED that the Clerk of the Court shall enter the default of the defendant for having failed to plead or to otherwise defend.

James P. Churchill
UNITED STATES DISTRICT JUDGE

*/ The plaintiff's motion for default judgment will not be scheduled for hearing until after the hearing on the Court's order to show cause bearing this date.

PURSUANT TO RULE 77(d), FRCivP
COPIES HAVE BEEN MAILED TO THE FOLLOWING:

Pauline Walber, d/b/a
Walber Construction Co.

Francis L. Zebot, Esq.

ON November 16, 1983

DEPUTY COURT CLERK Sec'y

A TRUE COPY

CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
BY: Lillian Brooks
DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WALBER CONSTRUCTION CO. Plaintiff, - vs - UNITED STATES DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, ET AL Defendants.	CIVIL NO. 83-CV-0454-DT

ORDER CONCERNING ORDER TO SHOW CAUSE AND DIRECTING PLAINTIFF TO ELECT WHETHER TO WAIVE CONTRACT DAMAGE CLAIMS ABOVE $10,000 ON THE THREE CONTRACTS OTHERWISE OUTSIDE THE COURT'S JURISDICTION ON OR BEFORE FEBRUARY 1, 1984

At a session of said Court held in the Federal Building and U. S. Courthouse, Detroit, Michigan on January 5, 1984.

Present: HONORABLE JAMES P. CHURCHILL
United States District Judge

The Court having issued its order to show cause regarding its jurisdiction under 28 U.S.C. 1346(a)(2); and the plaintiff and counsel for the defendants having briefed and argued the issues raised in the order; and the Court having determined on the record in open court on January 5, 1984 that the claims against the Department of Housing and Urban Development are claims "against the United States" under 1346 (a)(2), that the aggregate of the four contract claims at issue does not dictate

a conclusion that all claims are outside the Court's jurisdiction and that the bringing of such claims in excess of $10,000 in this Court does not constitute a waive of all sums in excess of $10,000; and the Court having found that the claims are not governed by the Contract Disputes Act of 1978 since it does not appear that the plaintiff made an election to proceed under that Act; and the Court having further indicated to the plaintiff that unless there is a formal waiver of any sums over $10,000 under each of the three contracts for which the amended complaint seeks in excess of $10,000, the Court lacks jurisdiction thereover and will transfer such claims to the Claims Court pursuant to 28 U.S.C. 1631; and the Court having granted the plaintiff's request for time to consider the issue of such an election; and for reasons stated on the record in open court at that time,

IT IS ORDERED that the Court's jurisdiction over the plaintiff's claim upon contract #044-78-4595 (Myers) is noted as proper under 28 U.S.C. 1346 (a)(2). Plaintiff's claims under the other three contracts */ are deemed to be outside the Court's subject matter jurisdiction inasmuch as they are

claims in excess of $10,000 and within the exclusive jurisdiction of the United States Claims Court, PROVIDED HOWEVER,

IT IS FURTHER ORDERED that the plaintiff may elect to waive any such claims in excess of $10,000 under each of the three contracts. If plaintiff wishes to make such an election, she shall file, on or before February 6, 1984, a plain and simple statement that any damages in excess of $10,000 under each of the three contracts are voluntarily and knowingly waived. Such statement shall be deemed to be an amendment to the complaint with regard to the prayer for relief.

IT IS FURTHER ORDERED that if no such election is timely filed, the action will be transferred with regard to the three contract claims in excess of $10,000 pursuant to 28 U.S.C. 1631 to the United States Claims Court.

James P. Churchill
UNITED STATES DISTRICT JUDGE

DATED: January 6, 1984

PURSUANT TO RULE 77(d) FRCivP
COPIES HAVE BEEN MAILED TO THE FOLLOWING
Pauline Walber d/b/a
Walber Construction Co.
Francis L. Zebot, Asst. U. S. Atty.
ON January 9, 1984
Secretary

A TRUE COPY

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

BY: Lillian Brooks
DEPUTY CLERK

*/ 044-78-4679 (Lakewood)
044-78-4980 (Longacre)
044-78-4694 (Sussex)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WALBER CONSTRUCTION CO., Plaintiff, v. UNITED STATES DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, et al., Defendants.	CIVIL NO. 83-CV-0454-DT

ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION AND GRANTING PLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME

At a session of said Court held in the Federal Building and U. S. Courthouse, Detroit, Michigan, on February 9, 1984

Present: HONORABLE JAMES P. CHURCHILL
United States District Judge

The plaintiff having filed a motion for reconsideration of this Court's order of January 9, 1984 concerning the order to show cause; and the plaintiff having also filed a motion for enlargement of the February 6, 1984 deadline set by said order by which the plaintiff may file an election waiving all amounts in excess of $10,000 upon three of her four contract claims so as to confer this Court's jurisdiction under 28 U.S.C. 1346(a)(2); and the Court having read and considered the motions; and

no response to the motions being required under Local Rule 17k(2) and F.R.Civ.P 6(b)(1) respectively; and it appearing that the authorities cited by the plaintiff in her brief in support of the motions for reconsideration prohibit discrimination by federal government contractors on the basis of sex and do not proscribe such discrimination by the federal contracting authorities against contractors; and it further appearing that the complaint presents claims for breaches of contracts and that this Court's jurisdiction, if any, is under 28 U.S.C. 1346(a)(2); and an enlargement of time being in order due to the delay in considering the motion for reconsideration,

IT IS ORDERED that the plaintiff's motion for reconsideration be, and the same is hereby, DENIED.

IT IS FURTHER ORDERED that the plaintiff's motion for enlargement of time be, and is hereby GRANTED. The plaintiff may, if she so elects, file the waiver in the form specified in the Court's prior order of January 9, 1984, not later than February 17, 1984.

James F. Churchill
UNITED STATES DISTRICT JUDGE

Dated: Feb 9, 1984

A TRUE COPY

CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

BY: Lillian Brooks
Deputy Clerk

PURSUANT TO RULE 77 (d), FRCivP
COPIES HAVE BEEN MAILED TO THE FOLLOWING:

Pauline Walber, d/b/a
Walber Construction Co.

Francis L. Zebot AUSA

ON February 10, 1984

SECRETARY

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

WALBER CONSTRUCTION CO., Appellant,	)	Case No. 84-1113
- vs -	)	Case No. 84-1748
THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SAMUEL PIERCE, Secretary, Appellee.	)	DC No. 83-0454

NOTICE OF APPEAL

Notice is hereby given that Pauline Walber D/B/A Walber Construction Co., above named, hereby Appeals to the Supreme Court of the United States from the Order, considering this action to be based in part on 28 U.S.C. 1346, thereby transferring same to the U. S. Court of Appeals for the Federal Circuit, entered in the U. S. Court of Appeals for the Sixth Circuit, pursuant to Rule 9(a) of said Court, on the 16th day of November, 1984, and;

From the Order Denying Appellant's Motion for Reconsideration, entered the 21st day of December, 1984.

The statutes under which this Appeal is taken to the Supreme Court of the United States are: 28 U.S.C. 2106 and 28 U.S.C. 1253.

Dated: 1-2-85

By: Pauline Walber D/B/A
Walber Construction Co.
Appellant,
3530 West Outer Drive
Detroit, Michigan 48221
Phone: 313-864-6076 or
313-537-7800

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WALBER CONSTRUCTION CO., Plaintiff,	CIVIL ACTION No.
- vs -	83-CV-0454-DT
THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SAMUEL PIERCE, Secretary, Defendants.	HON: JAMES P. CHURCHILL

NOTICE OF APPEAL

Notice is hereby given that Pauline Walber D/B/A Walber Construction Co., Plaintiff above named hereby Appeals to the United States Court of Appeals for the Federal Circuit from the ORDER CONCERNING ORDER TO SHOW CAUSE AND DIRECTING PLAINTIFF TO ELECT WHETHER TO WAIVE CONTRACT DAMAGE CLAIMS ABOVE $10,00 ON THE THREE CONTRACTS OTHERWISE OUTSIDE THE COURT'S JURISDICTION ON OR BEFORE FEBRUARY 1, 1984, entered in this action on the 9th day of January, 1984 and the ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION AND GRANTING PLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME, entered in this action on the 9th day of February, 1984.

Dated & Filed: 2-15-8

By: Pauline Walber D.B.A
Walber Construction Co. Plaintiff,
3530 West Outer Drive
Detroit, Michigan 48221
Phone: 313-864-6076 or 313-537-7800

APPENDIX K

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WALBER CONSTRUCTION CO., Plaintiff, - vs - THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SAMUEL PIERCE, Secretary, Defendants.	CIVIL ACTION No. 83-CV-0454-DT HON: JAMES F. CHURCHILL FILED Oct. 16, 1984

NOTICE OF APPEAL

Notice is hereby given that Pauline Walber D/B/A Walber Construction Co., Plaintiff above named hereby Appeals to the United States Court of Appeals for the Sixth Circuit from the ORDER DENYING PLAINTIFF'S MOTION TO STAY PROCEEDINGS FOR ENFORCING ORDER TO TRANSFER ACTION TO UNITED STATES CLAIMS COURT entered in this action on the 21st day of October, 1984 and Docketed on the 9th day of October, 1984.

This Order was entered during pendency of an Appeal on Jubject Matter Jurisdiction, presently in the United States Court of Appeals for the Sixth Circuit, Case No. 84-1113.

By: Pauline Walber D/B/A
Walber Construction Co., Plaintiff,
3530 West Outer Drive
Detroit, Michigan 48221
Phone: 864-6076 or 537-7800

APPENDIX I.

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT
717 MADISON PLACE, N. W.
WASHINGTON, D.C. 20439

George E. Hutchinson
Clerk

Telephone: 633-6550
Area Code 202

November 20, 1984

Ms. Pauline Walber **
3530 W. Outer Drive
Detroit, MI 48221

Title: Walber Construction Co. vs. U.S. Dept. of HUD
Case Number 85-793

This is to advise that the above-entitled appeal has been docketed on the above date and given the indicated case number (CAFC Rule 11(b)(1)

Enclosed is a copy of the Rules of the Court, the Procedural Handbook, an Entry of Appearance form, and Notices to Counsel emphasizing certain rule requirements and the evaluation of appeals.

Under the provisions of FRAP 11(e) and CAFC 11(a)(4), all papers will be retained by the trial court unless ordered by this court on motion or sua sponte during the pendency of the appeal. Please note that the Transcript Purchase Order is to be completed by the appellant and court reporter within the time period noted thereon.

Very truly yours,

George E. Hutchinson

enclosures

Mr. David Cohen**

**This case was transferred from the Sixth Circuit Court of Appeals.